

Notice of Allowability

Application No.

10/649,441

Examiner

Nicholas Woodall

Applicant(s)

VANDERWALLE, MARK V.

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 01/11/2007.
2. ☒ The allowed claim(s) is/are 19-26,28-30 and 32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 08/24/2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


EDUARDO ROBERT
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. This action is in response to applicant's amendment received on 01/11/2007.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Brent Seitz on 03/07/2007. On 02/13/2007, the examiner contacted the applicant's representative concerning an examiner's amendment to place the language from dependent claim 27 into independent claims 24 and 25 and to place the language from dependent claim 31 into independent claim 29. The applicant's representative discussed this with the applicant and contacted the examiner on 02/20/2007 with possible amendments to independent claims 24, 25, and 29, which the examiner and the examiner's supervisor felt were too broad for allowance and called the applicant's representative back to convey the reasoning for the possible amendments being too broad. The examiner explained to the applicant's representative that both limitations in the dependent claims were needed in the independent claim to overcome the prior art. The applicant's representative discussed this with the applicant and contacted the examiner 03/06/2007 leaving a telephone message agreeing to placing the language of dependent claims 27 and 31 into the independent claims as state above. The examiner

returned the phone call on 03/07/2007 to confirm the message and discuss the amendment.

The application has been amended as follows:

3. Claim 24 has been amended to read as follows; " A method of fixing a first implant relative to a selected bone portion with a second implant, the method comprising:

positioning said first implant relative to the selected bone portion in a primary procedure;

passing said second implant relative to a selected portion of said first implant;

providing a conduit through said second implant to direct a flow of a flowable material through said second implant to assist in fixation of said second implant;

connecting a removable connector to said second implant during a revision procedure;

flowing the flowable material through said second implant and through said first implant during the revision procedure to interconnect said second implant with the selected bone portion; and

wherein said connecting a removable delivery device includes connecting a ring portion of a conduit of the removable delivery device to an annular depression of the fastening device to connect the delivery device to the fastening device."

4. Claim 25 has been amended to read as follows; " A method of fastening an implant to a bone with a fastening device, the method comprising:

positioning the implant relative to the bone during an initial procedure;

securing the implant to the bone with the fastening device during the initial procedure;

connecting a removable delivery device to the fastening device during a revision procedure;

injecting a flowable material through the fastening device and into the bone using the removable delivery device;

detaching the removable delivery device from the fastening device; and

wherein said connecting a removable delivery device includes connecting a ring portion of a conduit of the removable delivery device to an annular depression of the fastening device to connect the delivery device to the fastening device”.

5. Claim 27 has been cancelled.

6. Claim 29 has been amended to read as follows; “ A method of fastening an implant to a bone with a fastening device, the method comprising:

positioning the implant relative to the bone during an initial procedure;

inserting the fastening device through a bore in the implant and into the bone to secure the implant to the bone during the initial procedure;

connecting a removable delivery device to a head of the fastening device during a revision procedure;

injecting a flowable material through an internal bore in the fastening device that extends from the head of the fastening device to a body portion of the fastening device, the flowable material exits the body portion through an aperture in the body portion;

detaching the removable delivery device; and

wherein said connecting a removable delivery device includes connecting a ring portion of a conduit of the removable delivery device to an annular depression of the head of the fastening device to connect the delivery device to the fastening device”.

7. Claim 31 has been cancelled.

Allowable Subject Matter

8. The following is an examiner's statement of reasons for allowance:

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose or suggest a method comprising the step of connecting a removable delivery device includes connecting a ring portion of a conduit of the removable delivery device to an annular depression of the fastening device to connect the delivery device to the fastening device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

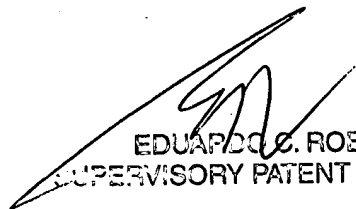
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Woodall whose telephone number is 571-272-5204. The examiner can normally be reached on Monday to Friday 8:00 to 5:30 EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NWW



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SUPERVISORY PATENT EXAMINER